

Board Administration and Regulatory Coordination Unit

Division 3. Air Resources Board

Chapter 1. Air Resources Board

Subchapter 1.25. Administrative Procedures–Hearings

Article 3. Administrative Hearing Procedures for Petitions for Review of Complaints

Subarticle 5. Prehearing Procedures

§ 60065.22. Motion to Intervene.

(a) A person may file a motion to intervene, and the hearing officer may grant such a motion if all of the following conditions are satisfied:

- (1) The motion is in writing, with copies served on all parties named in the complaint or the petition for review.
- (2) The motion is made as early as practicable prior to the prehearing conference, if one is held, or the first day of the hearing on the merits of the complaint or petition for review.
- (3) The motion states facts demonstrating that the requesting intervenor's legal rights, duties, privileges, or immunities will be substantially affected by the proceeding or that it qualifies as an intervenor under a statute or regulation.
- (4) The hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceeding will not be impaired by allowing the intervention.

(b) If motion is granted, the hearing officer may impose conditions on the intervenor's participation in the proceeding, either at the time that intervention is granted or at a later time. Conditions may include:

- (1) Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the motion.
- (2) Limiting or excluding the use of discovery, cross-examination, and other procedures involving the intervenor so as to promote the orderly and prompt conduct of the proceeding.
- (3) Requiring two or more intervenors to combine their presentations of evidence and argument, cross-examination, discovery, and other participation in the proceeding.
- (4) Limiting or excluding the intervenors's participation in settlement negotiations.

(c) The hearing officer shall issue an order granting or denying the motion for intervention as soon as practicable in advance of the hearing, briefly stating the reasons for the order and specifying any conditions that he or she has determined as appropriate. The hearing officer may modify the order at any time, stating the reasons for the modification. The hearing officer shall promptly give notice of any order granting, denying, or modifying intervention to the applicant and to all parties.

(d) Whether the interests of justice and the orderly and prompt conduct of the proceedings will be impaired by allowing intervention is a determination to be made at the sole discretion of the hearing officer, based upon his or her knowledge and judgment. The determination is not subject to administrative or judicial review.

NOTE: Authority cited: Sections 39600, 39601, 43028 and 43031(a), Health and Safety Code. Reference: *Mathews v. Eldridge*, 424 U.S. 319 (1976); Sections 43028 and 43031(a), Health and Safety Code; and Section 11440.50, Government Code.

REFERENCE